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December 4, 2020

VIA HAND-DELIVERY

Paul Wersant
In-House Counsel, IOU Central, Inc.
Suite D-245
3245 Peachtree Parkway
Suwanee, GA 30024

Re: IOU Central, Inc. v. Benz Acquisition Co, Inc. d/b/a Benz Spring Co., J&J
Amusements, Inc., and Daniel D. Hansen
In the United States District Court for the Northern District of Georgia;
Atlanta Division, Civil Action File No.: 1:20-CV-02863-CC

**THIS CORRESPONDENCE IS SENT SUBJECT TO AND WITHOUT WAIVER OF
ALL DEFENSES OF LACK OF PERSONAL JURISDICTION AND IMPROPER VENUE
CURRENTLY PENDING BEFORE THE COURT.**

Dear Paul:

As you know, this firm represents Defendants J&J Amusements, Inc. and Daniel D. Hansen (the "J&J Defendants") in the above-referenced matter. The purpose of this correspondence is to address Plaintiff IOU Central, Inc.'s ("Plaintiff") failure to make initial disclosures required by Rule 26(a)(1), and failure to participate in framing a discovery plan as required by Rule 26(f). Please consider this the J&J Defendants' good-faith attempt to resolve these discovery disputes.

Under Local Rule 26.1, initial disclosures were due within thirty days of the J&J Defendants' appearance in the case. With the extensions provided by the Court, that deadline for this case was September 23, 2020. On September 24, 2020, I pointed out to you in an email that Plaintiff needed to make its initial disclosures, but over two months have passed since then, and no Plaintiff's disclosures have been made. Your client's failure to make initial disclosures

hampers my clients' ability to tailor discovery requests to the scope of your information and witnesses, and deprives the J&J Defendants information about Plaintiff's case to which they are entitled.

Perhaps more troubling is Plaintiff's refusal to participate in creating a discovery plan and commencing discovery by attending a 26(f) conference. That conference was supposed to have been conducted before August 20, 2020. On August 17, 2020, I emailed you asking when you wanted to hold the conference. You did not ever respond to that email. I asked you again on September 23, 2020 to tell me when you could be available for the 26(f) conference, and you ignored that request as well. I mentioned once more on September 24 in another email, but even after three requests from me, you have never once provided a date or attempted to participate in scheduling the 26(f) conference.

Likewise, Plaintiff has been silent on preparation of its portion of the Joint Preliminary Report and Discovery Plan (JPRDP) for months. At 9:30 AM on September 23, 2020, without our ever previously communicated about it, you demanded via email that I provide my clients' portion of the JPRDP "today by noon." I responded that I would begin working on it, and I provided my clients' inputs for the report the next day (September 24, 2020), via email and in Word format as you had requested. That was *ten weeks* ago, but Plaintiff has still not sent me Plaintiff's inputs, a draft report, or any other information about the status of the report or any of the topics that we are obligated to discuss in order to complete the JPRDP.

Discovery in this case began on September 3, 2020, and ends on January 3, 2021. L.R. 26.2(A). Plaintiff's failure to participate in any of the three earliest parts of discovery has prevented the parties' conducting discovery in an orderly or timely way. With the January 3, 2020 deadline now looming, the J&J Defendants have no choice but to serve their written discovery requests ahead of the 26(f) conference (and without the benefit of Plaintiff's initial disclosures) or lose their opportunity to serve any at all. Therefore, please see enclosed with this correspondence the J&J Defendants' written discovery requests.

The J&J Defendants hereby demand Plaintiff's overdue initial disclosures no later than December 11, 2020. If Plaintiff's initial disclosures are not made by December 11, 2020, the J&J Defendants will seek the Court's intervention into these discovery disputes.

Sincerely,

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC**



Ashley S. Thompson

Encls.